

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PATRICK ENRIGHT, HENRY DIAMOND, JAMES LYNCH, JOHN GORHAM, JAMES PATTERSON, EMANUEL PYROS and MIKE ZEMSKI,

Plaintiffs,

-vs.-

NEW YORK CITY DISTRICT COUNCIL OF CARPENTERS WELFARE FUND, THE BOARD OF TRUSTEES OF THE NEW YORK CITY DISTRICT COUNCIL OF CARPENTERS WELFARE FUND, JOSEPH EPSTEIN, as EXECUTIVE DIRECTOR OF THE NEW YORK CITY DISTRICT COUNCIL OF CARPENTERS WELFARE FUND,

Defendants,

-and-

THE DISTRICT COUNCIL OF NEW YORK CITY AND VICINITY OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,

Defendant-Intervenor.

**ECF Case**

Index No. 12-cv-4181 (JPO)

**NOTICE OF MOTION TO  
DISMISS THE COMPLAINT'S  
FIRST, SECOND, THIRD AND  
FOURTH CAUSES OF ACTION**

**PLEASE TAKE NOTICE** that upon the accompanying Memorandum of Law in Support of Defendants' Motion for Summary Judgment, the Declaration of Laura Kalick, the Stipulation of Uncontested Facts and Exhibits thereto, and all prior proceedings had herein, Defendants New York City District Council of Carpenters Welfare Fund, the Board of Trustees of the Welfare Fund, and Joseph Epstein, as the Executive Director of the Welfare Fund (collectively, "Defendants"), will move the Court before the Honorable J. Paul Oetken, United States District Judge in the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007, on a date and time to be determined by the Court, for an Order granting summary judgment in favor of Defendants and dismissing the First, Second, Third, and Fourth

Causes of Action in the Complaint in their entirety, on the grounds that there are no genuine issues of material fact and Defendants are entitled to judgment as a matter of law, and for such other relief as the Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the briefing schedule "so ordered" by the Court, Plaintiffs' Opposition, if any, is to be served on or before March 29, 2013 and Defendants' Reply, if any, is to be served on or before April 12, 2013.

Dated: New York, New York  
March 8, 2013

Respectfully submitted,

KAUFF MCGUIRE & MARGOLIS LLP

By: /s/ Elizabeth O'Leary  
Elizabeth O'Leary  
G. Peter Clark

950 Third Avenue  
Fourteenth Floor  
New York, NY 10022  
(212) 644-1010

*Attorneys for Defendants*